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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 ANTOLIN ANDREW MARKS,

9 Plaintiff,

10 v.

11 TOM GILES *et al.*,

12 Defendants.
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Case No. C07-5572RJB/JKA

ORDER

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16 This 42 U.S.C. § 1983/Bivens action has been referred to the undersigned Magistrate Judge
17 pursuant to 28 U.S.C. § 636 (b) and local Rules MJR 3 and 4.

18 Before the court is Mr. Marks motion to have the court take “judicial notice” of a report
19 authored by University of Seattle and One America (Dkt. # 38). The methodology of the report
20 shows the information in it came from interviews with persons. The majority of the information in
21 the report does not come from direct observation. Further, the information Mr. Marks asks the
22 court to consider is to a large extent not germane to the remaining claim in this litigation.

23 The only claim remaining in this action is Mr. Marks claim regarding the conditions of
24 confinement in segregation. The motion for judicial notice is **DENIED**. The court will not
25 consider Dkt. # 38.

26 If the information in this report becomes germane to a dispositive motion, or at trial, any
27 party may then submit the report. This allows the other side the opportunity to raise any objection

28 ORDER 1

1 they may have in a proper context.

2 The motion is **DENIED**. The Clerk is directed to mail a copy of this Order to plaintiff and
3 counsel and remove Dkt. # 38 from the court's calendar.

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5 DATED this 27 day of February 2009.

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/S/ J. Kelley Arnold
J. Kelley Arnold
United States Magistrate

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28 ORDER 2